



9110-17

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2011-0097]

Privacy Act of 1974; Department of Homeland Security, Federal Emergency

Management Agency – 009 Hazard Mitigation Assistance Grant Programs

System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security, Federal Emergency Management Agency proposes to update and reissue a current system of records titled, “Department of Homeland Security/Federal Emergency Management Agency – 2006 – 0002 National Emergency Management Information System (NEMIS) – Mitigation (MT) Electronic Grants Management System of Records,” and retitle it “Department of Homeland Security/Federal Emergency Management Agency – 009 Hazard Mitigation Assistance Grant Programs System of Records.” As a result of the biennial review of this system, the Department of Homeland Security, Federal Emergency Management Agency is proposing changes to the following: (1) system name; (2) categories of individuals; (3) categories of records; (4) purposes; (5) routine uses; and (6) sources of records. This revised system will be included in the Department of Homeland Security, Federal Emergency Management Agency’s inventory of record systems.

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This revised system will be effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number DHS-2011-0097, by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions on the website.
- Fax: 703-483-2999.
- Mail: Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528.

INSTRUCTIONS: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

DOCKET: For access to the docket to read background documents or comments received, please visit <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Eric M. Leckey (202) 212-5100, Privacy Officer, Federal Emergency Management Agency, Department of Homeland Security, Washington, D.C. 20478. For privacy issues, please contact: Mary Ellen Callahan (703) 235-0780, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. § 552a, the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) proposes to update and reissue a current system of records titled, “DHS/FEMA – 2006 – 0002 National Emergency Management Information System (NEMIS) – Mitigation (MT) Electronic Grants Management System of Records (69 FR 75079, December 15, 2004),” and retitle it, “DHS/FEMA – 009 Hazard Mitigation Assistance Grant Programs System of Records.” As part of the process for reviewing information technology under the National Emergency Management Information System (NEMIS) – Mitigation (MT) Electronic Grants Management System (NEMIS – MT eGrants), DHS is updating both the Privacy Impact Assessment (PIA) published at www.dhs.gov/privacy and this system of records notice to reflect changes in the program and technology.

FEMA collects personally identifiable information (PII) through paper and electronic applications for Hazard Mitigation Assistance (HMA) grant programs. This SORN includes renaming the system of records to eliminate the specific reference to “electronic grants management” and therefore broaden the coverage of the system of records to include paper-based applications for Hazardous Mitigation Assistance (HMA) grant programs.

The categories of individuals has been broadened to cover grant applicants from additional HMA grants programs not previously included in the MT Electronic Grants Management System of Records. The HMA grant programs include, but may not be limited to, the Pre-Disaster Mitigation (PDM) grant program (42 U.S.C. § 5133), the Hazard Mitigation Grant Program (HMGP) (42 U.S.C. § 5170c), the Flood Mitigation Assistance (FMA) grant program (42 U.S.C. § 4104c), the Severe Repetitive Loss (SRL)

grant program (42 U.S.C. § 4102a), and the Repetitive Flood Claims (RFC) grant program (42 U.S.C. § 4030). HMA grant programs provide funds to eligible applicants to implement mitigation activities to reduce or eliminate the risk of future damage to life and property from hazards.

Eligible applicants for FEMA HMA grants include all fifty states, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and federally recognized tribal governments. Eligible sub-applicants of HMA grants include state agencies, local governments, tribal governments, and, for HMGP only, certain private, non-profit entities, to which a sub-grant is awarded by an applicant.

Some applications for HMA grant programs propose mitigation activities that impact property privately owned by individuals, such as: retrofitting structures, elevating structures, acquiring and demolishing or relocating structures, minor structural flood control projects, or constructing safe rooms. These applications include the minimum amount of the property owner's PII necessary to ascertain the eligibility of the property and/or structure under mitigation grant program regulations.

This SORN has been revised to update categories of records to provide additional transparency. Categories of records now include: information about points of contact (POC) who submit grant applications, including the name of the organizations submitting the grant; the name of the organization's POC for the grant and the grant POC's office phone number, office mailing address, and email address; and information about the Governor's representatives who may sign grant applications, such as the representative's

name and signature. Categories of records also now include information related to payments or financial assistance property owners may receive from non-FEMA sources.

The purpose of this system of records has been expanded to include the Hazard Mitigation Grant Program, the Severe Repetitive Loss Program, the Repetitive Flood Claims Program, and any other authorized Hazard Mitigation Assistance grant programs where the same type of information is collected and used for the same purpose of review and approving hazard mitigation grants.

The routine uses have been updated to be consistent with the existing order and content of all DHS SORNs. In addition, two new routine uses have been added. Routine use I has been added to clarify that information will be shared for routine management and oversight between FEMA and other federal agencies, state and local governments, or other public or private entities (to include voluntary/non-governmental organizations, insurance companies, insurance agents/brokers, individual's employer, and/or financial institutions) when an individual property owner's eligibility for grant assistance to the property, in whole or in part, depends upon financial benefits already received or available from another source for similar purposes. Routine use J has been added in order to allow the Department to disclose information to the public when the public's need to know the information outweighs the risk to privacy.

DHS/FEMA is clarifying the language under the sources of records. FEMA collects information in its HMA grant applications from state, local, tribal, and territorial partners seeking grant funding. However, private and non-profit organizations may be additional sources of information.

This updated system will be included in DHS/FEMA's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR Part 5.

The Privacy Act requires each agency to publish in the Federal Register a description denoting the type and character of each system of records that the agency maintains, and the routine uses of the records contained in each system in order to make agency record keeping practices transparent; to notify individuals regarding the uses to which personally identifiable information is put; and to assist individuals to more easily find such files within the agency. Below is the description of the DHS/FEMA – 009 Hazard Mitigation Assistance Grant Programs System of Records.

In accordance with 5 U.S.C. § 552a(r), DHS has provided a report of this system change to the Office of Management and Budget and to Congress.

System of Records:

Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) – 009.

System name:

DHS/FEMA – 009 Hazard Mitigation Assistance Grant Programs System of Records.

Security classification:

Unclassified.

System location:

Mitigation eGrants, the Hazard Mitigation Grant Program (HMGP) system, and hard copy records are maintained at Federal Emergency Management Agency Headquarters, in Washington, D.C. and field locations.

Categories of individuals covered by the system:

Categories of individuals covered by this system include:

- The points of contact for the grant applications, including applications that are denied, and awarded grants (grantees), such as state, local, tribal, and territorial governments, and private and non-profit organizations applying for HMA grant funds; and
- Individual private property owners whose properties are identified in applications for Hazard Mitigation Assistance (HMA) grant funds.

Categories of records in the system:

The following information may be collected:

- Individual property owner's name;
- Individual property owner's damaged property address;
- Individual property owner's home phone number;
- Individual property owner's office phone number;
- Individual property owner's cell phone number;
- Individual property owner's mailing address;
- Individual property owner's status regarding flood insurance;
- Individual property owner's National Flood Insurance Program (NFIP) policy number;
- Individual property owner's insurance policy provider for the property proposed to be mitigated with FEMA funds;
- Individual property owner's signature;
- Grant applicant organization name;
- Grant applicant organization POC;
- Grant applicant organization POC office phone number;
- Grant applicant organization POC office mailing address;
- Grant applicant organization POC email address;
- Grant applicant's Dun and Bradstreet Data Universal Numbering System (DUNS);
- Governor's authorized representative name;
- Governor's authorized representative signature;
- Notations and reports of decisions from insurance, disaster, or similar financial

aid and/or income from other federal and state agencies, insurance companies, employers, banks, financial or credit data services, and public or private entities as they relate to payments and/or financial assistance received by individual property owners for the subject property; and

- Mitigation activity type, hazard type, award date, and/or Congressional district.

Authority for maintenance of the system:

Sections 203 and 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. §§ 5133 and 5170c; Sections 1366, 1323, and 1361A of the National Flood Insurance Act, as amended, 42 U.S.C. §§ 4030, 4102a, and 4104c.

Purpose(s):

The purpose of this system is to determine the eligibility of a property or structure for FEMA's hazard mitigation grant programs, verify the eligibility of activities for mitigation grants, identify repetitive loss properties, and implement measures to reduce future property damage from hazards.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. § 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. § 552a(b)(3) as follows:

A. To the Department of Justice (including United States Attorney Offices) or other federal agency conducting litigation or in proceedings before

any court, adjudicative or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. any employee of DHS in his/her official capacity;
3. any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or
4. the United States or any agency thereof.

B. To a congressional office from the record of an individual in response to a written inquiry from that congressional office made pursuant to a Privacy Act waiver from the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. §§ 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary or relevant to such audit or oversight function.

E. To agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other

systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To another federal, state, or local government agency charged with administering federal mitigation or disaster relief programs in order to prevent a duplication of efforts by FEMA and the other agency, or a duplication of benefits to an individual eligible to apply for mitigation grant programs administered by FEMA.

I. To a federal, state, or local government agency, or other public or private entity (to include voluntary/non-governmental organizations, insurance companies, insurance agents/brokers, individual's employer, and/or financial institutions), when an individual property owner's eligibility for grant assistance to the property, in whole or in part, depends upon financial benefits already received or available from that source for similar purposes.

J. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Disclosure to consumer reporting agencies:

None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

Storage:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD-ROM.

Retrievability:

Records may be retrieved by applicant or sub-applicant organization submitting the grant application, mitigation activity type, hazard type, award date, congressional district, and/or individual's flood insurance policy information.

Safeguards:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

Retention and disposal:

In accordance with Government Records Schedule (GRS) 3, Item 14, grant administrative records and hard copies of unsuccessful grant applications files are destroyed when two years old. In accordance with GRS 3, Item 13, electronically received and processed copies of unsuccessful grant application files will be stored for 3 years from the date of denial, and then deleted. In accordance with FEMA Records Schedule N1-311-95-1, Item 1, grant project records are maintained for three years after the end of the fiscal year that the grant or agreement is finalized or when no longer needed, whichever is sooner. In accordance with FEMA Records Schedule N1-311-95-1, Item 3, grant final reports are retired to the Federal Records Center (FRC) three years after cutoff, and then transferred to National Archives and Records Administration (NARA) 20 years after cutoff. In accordance with FEMA Records Schedule N1-311-95-1, Item 2; N1-311-01-8, Item 1; and N1-311-04-1, Item 1, all other grant (both disaster

and non disaster) records will be stored for 6 years and 3 months from the date of closeout (where closeout is the date FEMA closes the grant in its financial system) and final audit and appeals are resolved and then deleted. Records of real properties (property acquisition agreement and lists of acquired properties) acquired with FEMA funds for maintenance in accordance with agreement terms of the grant cannot be destroyed until agreement with locality is no longer viable.

System Manager and address:

Director, Risk Reduction Division, FEMA, 1800 South Bell Street, Arlington, VA 20598-3030.

Notification procedure:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the FEMA FOIA Officer, whose contact information can be found at <http://www.dhs.gov/foia> under “contacts.” If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive, S.W., Building 410, STOP-0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28

U.S.C. § 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, <http://www.dhs.gov> or 1-866-431-0486. In addition you must:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

Record access procedures:

See “Notification procedure” above.

Contesting record procedures:

See “Notification procedure” above.

Record source categories:

Information in this system of records is obtained by FEMA from state, local, tribal, territorial governments, and private and non-profit organizations via hard copy and

electronic applications for assistance. Individual property owners cannot apply directly to FEMA for assistance.

Exemptions claimed for the system:

None.

Dated: July 12, 2012

Mary Ellen Callahan

Chief Privacy Officer,

Department of Homeland Security.

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